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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/689,012

10/20/2003

James R. Raskin

P-TN-3167A

4121

7590

10/17/2005

Black & Decker Inc.
701 E. Joppa Road, TW-199
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EXAMINER

GUADALUPE, YARITZA

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/689,012	Applicant(s) RASKIN ET AL.	
	Examiner Yaritza Guadalupe McCall	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-36 and 38-42 is/are rejected.
- 7) ☒ Claim(s) 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to Amendment filed August 4, 2005

Acknowledgement

1. The Amendment filed August 4, 2005 has been entered and made of record. The present Office Action is made with all the suggested amendments being fully considered. Accordingly, pending in this Office Action are claims 31 – 42.
2. It is also noted, that the Examiner of the present application has changed. Please, find the contact information at the end of this Office Action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 31, 35 – 36, 38 – 39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodrich et al. (US 6,502,319) in view of Schwandt (US 5,063,679).

With regards to claim 31, Goodrich et al. discloses a laser level (See Figure 10) disposed on a reference surface (e.g., wall) comprising a housing (24); a first light diode (14) disposed in the housing for emitting a first light beam along a first path; a first lens (20) disposed in the housing in the first path for converting the first light beam into a first planar beam, the first planar beam forming a first line on the reference surface.

Goodrich et al. does not discloses the hanging assembly as stated in claim 31.

Regarding the hanging assembly as stated in claim 31 : Goodrich et al. teaches a housing provided with a magnet (45) for mounting the device to the reference surface (i.e., metal wall 48). Schwandt discloses an apparatus including a hanging assembly comprising a reference surface assembly/metal plate (32) connected to the housing (10) for mounting the apparatus to a reference surface (See Figure 6). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the level device disclosed

by Goodrich et al. by adding a hanging assembly as taught by Schwandt in order to provide a metal mounting surface for a non-metallic reference surface.

In regards to claims 35 and 36, Goodrich et al. and Schwandt teach a laser level comprising a detector circuit (58) disposed in the housing (24) for detecting a feature behind the reference surface such as studs (See Column 3, lines 37 – 39).

With respect to claim 38, the combination of Goodrich et al. and Schwandt disclose a detector circuit that does not controls the first light diode of the laser level.

Regarding claim 39, Goodrich et al. and Schwandt further disclose a laser level wherein the first line (52) is substantially horizontal and the reference surface is a substantially vertical wall.

In regards to claim 42, the combination of Goodrich et al. and Schwandt also disclose a reference surface assembly comprising pins (See Figure 6).

6. Claims 32 – 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodrich et al. (US 6,502,319) in view of Schwandt (US 5,063,679), as applied to claims 31, 35 – 36, 38, 39 and 42 above, and further in view of Le (US 5,539,990).

Goodrich et al. and Schwandt disclose a device as stated in paragraph 2 above.

Goodrich et al. and Schwandt does not disclose the second light diode as stated in claims 32, wherein said first and second lines are perpendicular as stated in claim 33, or parallel as stated in claim 34.

With respect to the second light diode, the lines being perpendicular and the lines being parallel as stated in claims 32 – 34 : Le discloses a light level (See Figure 3), having a first light diode (31) disposed in a housing for emitting a first light beam along a first path; a first lens (51) disposed in the housing in the first path for converting the first light beam into a first planar beam forming a first line on a reference surface; a second light diode (32) disposed in the housing for converting a second light beam along a second path; a second lens (52) disposed in the housing in the second path for converting the second light beam into a second planar beam, the second planar beam forming a second line on the reference surface, wherein the first and second lines are substantially perpendicular (See Figure 2), and a light diode (33) which can form a line substantially parallel to the second line. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a second light diode as taught by Le to the level disclosed by Goodrich as modified by Schwandt in order to provide a horizontal and vertical planes without having to rotate the tool.

Allowable Subject Matter

7. Claim 37 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

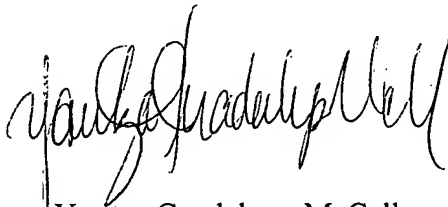
8. Applicant's arguments with respect to claims 31 - 42 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Yaritza Guadalupe-McCall', is positioned above the printed name.

Yaritza Guadalupe-McCall
Patent Examiner
Art Unit 2859

YGM
October 13, 2005